REMARKS

In the Office Action mailed June 20, 2006, the Examiner rejected claims 27-32 and 37 under 35 U.S.C. §101 as directed to non-statutory subject matter; rejected claims 20-35 under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,892,905 to Brandt et al. (Brandt); and rejected claims 36-38 under 35 U.S.C. §103(a) as unpatentable over Brandt in view of Special Edition Using Windows with 95 Internet Explorer 4.0 (Windows).

By this Amendment, Applicants amend the specification in response to the Examiner's rejection under 35 U.S.C. §101 and amend claims 20, 27, 33, and 38 to more clearly define the features of the present invention.

Claims 20-38 are currently pending.

35 U.S.C. §101 Rejection

The Examiner rejected claims 27-32 and 37 under 35 U.S.C. §101 as directed to non-statutory subject matter. Applicants disagree with the Examiner's rejection but, to expedite prosecution, have amended the specification to delete the disclosure regarding "paper." The rejection of claims 27-32 and 37 under 35 U.S.C. §101 should thus be withdrawn.

35 USC § 102(b) Rejection

The Examiner rejected claims 20-35 under 35 U.S.C. §102(b) as anticipated by Brandt. Applicants respectfully traverse this rejection.

Claim 20 defines a method for communication between a client computer and a server computer using the hypertext transfer protocol (HTTP) and using, at the client computer an HTTP-browser. Amended claim 20 recites a combination including "upon

unloading at the browser the predetermined close instruction received from the server computer, sending a second request from the client computer to the server computer to indicate initiation of the predetermined close instruction by the browser, the second request carrying the identifier and indicating to de-allocate the resource."

However, rather than a browser at a client system initiating a close function based on actions (e.g., "unloading") at a browser, Brandt discloses a disconnect mechanism initiated by a software application 342 at a serving computer system. Brandt FIG. 3; col. 17, lines 5-25. Specifically, Brandt states:

> Software application 342 then calls a DISCONNECT API on Internet/application gateway 332 (step 821). The DISCONNECT API is a disconnect mechanism used to allow software application 342 to suspend a process while it waits for input. The DISCONNECT API causes gateway 332 to save the necessary data and state information corresponding to the suspended conversation, including the conversation identifier. The software application 342 then suspends the current software process and returns to a state that will allow the software process to be restarted later.

Brandt, col. 17, lines 5-25. Because Brandt's software application 342 at the server initiates termination, Brandt fails to disclose or suggest at least the following feature of claim 20: "upon unloading at the browser the predetermined close instruction received from the server computer, sending a second request from the client computer to the server computer to indicate initiation of the predetermined close instruction by the browser, the second request carrying the identifier and indicating to de-allocate the resource." Therefore, Brandt does not anticipate claim 20, and the rejection of claim 20 and claims 21-26, at least by reason of their dependency from independent claim 20, should be withdrawn.

Independent claims 27 and 33, although of different scope, include features

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similar to those noted above for claim 20. For at least the reasons given with respect to claim 20, <u>Brandt</u> does not anticipate claims 27 and 33, and the rejection of claims 27 and 33 and claims 28-32 and 34-35, at least by reason of their dependency from independent claims 27 and 33, should be withdrawn.

35 USC § 103(a) Rejection

The Examiner rejected claims 36-38 under 35 U.S.C. §103(a) as unpatentable over <u>Brandt</u> in view of <u>Windows.</u> Applicants respectfully traverse this rejection.

Claim 36 defines a method for communication between a client computer and a server computer, both computers using the hypertext transfer protocol (HTTP) and the client computer using an HTTP-browser. Moreover, claim 36 recites a combination including, among other things, the following feature: "returning a close instruction to the client computer, the close instruction including the time-out period (T) and the identifier."

The Examiner appears to allege that <u>Brandt</u> at column 5, lines 5-67, column 8, lines 31-39, column 11, lines 15-24, and column 17, lines 6-24 teaches the above-noted feature of claim 36, but a closer scrutiny of the cited passages reveals that <u>Brandt</u> is completely silent with respect to the noted feature. Moreover, <u>Windows</u> fails to cure those deficiencies in <u>Brandt</u>. Indeed, although the Examiner alleges that <u>Windows</u> (chapter 17) teaches a time-out feature, the Examiner never alleges that it discloses or suggests the following feature of claim 36: "returning a close instruction to the client computer, the close instruction including the time-out period (T) and the identifier." Accordingly, claim 36 is patentable over <u>Brandt</u> and <u>Windows</u>, whether taken alone or in combination, and the rejection of claim 36 under 35 U.S.C. §103(a) should be withdrawn.

Claim 37, although of different scope, includes features that are similar to the ones noted above for claim 36. For at least the reasons noted for claim 36, claim 37 is patentable over Brandt and Windows, whether taken alone or in combination, and the rejection of claim 37 under 35 U.S.C. §103(a) should be withdrawn.

Amended claim 38 recites a combination including, among other things, the following feature: "as instructed by the response page, periodically sending the second requests by the browser to the server computer, the second requests carrying the identifier to prevent the server computer from de-allocating the resource." Once again, the Examiner appears to allege that Brandt at column 5, lines 5-67, column 8, lines 31-39, column 11, lines 15-24, and column 17, lines 6-24 teaches the noted feature, but a closer scrutiny of the cited passages reveals that Brandt fails to disclose or suggest the noted feature. Moreover, Windows fails to cure the deficiencies in Brandt. Accordingly, claim 38 is patentable over Brandt and Windows, whether taken alone or in combination, and the rejection of claim 38 under 35 U.S.C. §103 should be withdrawn.

The Examiner appears to allege that even though Brandt lacks any mention of a time-out period, one of ordinary skill would be motivated to combine Brandt's system for providing a common user interface with the cited Windows reference. But other than using impermissible hindsight, the Examiner has failed to show a motivation to combine from the references themselves. Moreover, the Examiner appears to rely on Brandt column 1, lines 45-56 and column 3, lines 35-40 for the purported motivation to combine, but those passages simply mention operating systems, not that an operating system is combinable with the Windows operating system. Applicants submit that the

Examiner has not satisfied the initial burden of factually supporting a *prima facie* case of obviousness (see M.P.E.P. § 2142).

According to M.P.E.P. § 2142, the Examiner must establish three criteria to make a prima *facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. As noted above, since Applicants fail to comprehend why a skilled artisan would be motivated to combine the disparate teachings of <u>Brandt</u>'s system for providing a common interface with the cited <u>Windows</u> reference. Second, there must be a reasonable expectation of success. The Examiner has failed to show whether such a combination could be made operative (and Applicants doubt such a combination is even possible). Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. As noted above, the references whether taken alone or in combination fail to teach each and every element of the claims rejected under section 103. Applicants submit that the Examiner has failed to establish each of these three criteria and has, thus, failed to support a *prima facie* case of obviousness. Absent such support, the rejections under 35 U.S.C. §103(a) should be withdrawn for this additional reason.

CONCLUSION

Applicants respectfully request that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner. Applicants submit that the proposed amendments do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were either earlier claimed or inherent in the claims as examined. Therefore, this Amendment should allow for immediate action by the Examiner.
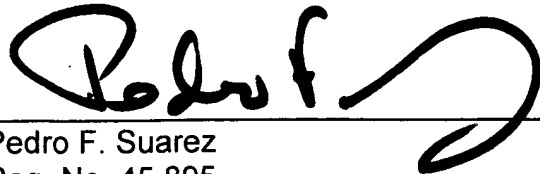
Finally, Applicants submit that the entry of the amendment would place the application in better form for appeal, should the Examiner continue to dispute the patentability of the pending claims.

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

On the basis of the foregoing amendments, Applicants respectfully submit that the pending claims are in condition for allowance. If there are any questions regarding these amendments and remarks, the Examiner is encouraged to contact the undersigned at the telephone number provided below. No fee is believed to be due,

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however, the Commissioner is hereby authorized to charge any fees that may be due,

or credit any overpayment of same, to Deposit Account No. 50-0311, Reference No.

34874-040-NAT.

Respectfully submitted,

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